

Appl. No. 10/643,827
Reply to Office Action of May 1, 2006

REMARKS

In the May 1, 2006 Office Action, claims 16-31 and 33 were rejected and claim 16 (inadvertently identified as claim 1) was deemed objectionable. This Response amends claims 16-17, 22-24, 27-29, and 33 and cancels claim 21. Support for the amendments may be found in the original specification at, for example, FIGS. 1-3. After entry of the foregoing amendments, claims 16-20, 22-31 and 33 (16 total claims; 2 independent claims; no additional claim fees due) remain pending in the application. Reconsideration of the application is respectfully requested in view of the above amendments and the following remarks.

Claim Objections

The Office Action objected to claim 1 because of the following informalities: "preventing" should be changed to read --prevent--. Applicants believe that the Examiner was referring to claim 16. Accordingly, claim 16 has been amended to read "prevent." In view of this amendment, Applicants request the withdrawal of the claim objection.

§112 Rejections

Claim 24 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. This claim has been amended to depend from claim 23 to provide antecedent basis for the term "said fingers." In view of this amendment, Applicants request the withdrawal of the §112 rejection of claim 24.

§102(b) Rejections

Claims 16-18, 20-21, 23-26, 31, and 33 stand rejected under 35 U.S.C. §102(b) as being anticipated by Krumweide, USPN 4,239,564 (hereinafter "Krumweide"). Applicants respectfully traverse these rejections.

The §102 rejection is curious because the Examiner acknowledges in Paragraphs 22 and 42 of the Office Action that Krumweide does not teach covering a substrate with a base material having a rough outer surface relative to the outer surface of the substrate. By definition, this precludes anticipation of independent claims 16 and 33 by Krumweide.

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For at least the above reasons, Krumweide does not disclose each and every element of independent claim 16 or independent claim 33. Therefore, Krumweide does not anticipate the invention of claims 16 and 33. For at least the same reasons, Krumweide does not anticipate the invention of claims 17-18, 20, 23-26, and 31 which all variously depend from claim 16.

Accordingly, Applicants request the withdrawal of the §102 rejection of claims 16-18, 20, 23-26, 31, and 33.

Claim 21 has been canceled. Hence, its rejection is now moot.

§103 Rejections

Claims 16-18, 20-26, 29-31, and 33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Krumweide in view of Bennett, USPN 3,753,848 (hereinafter "Bennett"). Applicants respectfully traverse these rejections.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify a reference or to combine the teachings of multiple references. Second, there must be a reasonable expectation of success. Third, the prior art must teach or suggest all of the recited claim limitations. Of course, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. Applicants respectfully submit that the Examiner has not met all of the above criteria.

Applicants submit that the prior art does not teach or suggest all of the limitations of independent claim 16. Krumweide generally teaches a method for coating a structure with a uniform layer of foam. More specifically, it teaches a method of spraying liquid foam through a screen and stripping away the screen and foam above the screen after the foam cures, leaving a foam layer of uniform thickness. Krumweide does not, however, teach a method of retaining insulation on a container by forming at least a part of the container from a substrate having an outer surface and covering the substrate with a base material having a rough outer surface relative to the outer surface of the substrate.

In rejecting claim 16, the Examiner states in Paragraph 9 of the Office Action that covering the substrate with a base material having a rough outer surface relative to the outer surface of the substrate is taught by Krumweide at Col. 3 lines 44-58. Applicants submit that

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the Examiner's characterization of Krumweide is inaccurate. There is no mention in Col. 3 lines 44-58 or anywhere else in Krumweide of the relative roughness between the outer surface of the base material and the outer surface of the substrate. There is no mention even of the substrate in Col. 3 lines 44-58.

Also in rejecting claim 16, the Examiner states in Paragraphs 23 and 24 of the Office Action that Bennett teaches covering a substrate with a base material having a rough outer surface relative to the outer surface of the substrate and that it would have been obvious to one skilled in the art at the time of the invention to have incorporated this method for the purpose of securing insulation to a container surface as taught in Krumweide. Applicants submit that the Examiner mischaracterizes Bennett. Bennett makes no mention of the relative roughness between the outer surface of the base material and the outer surface of the substrate. The Examiner points out only that Fig. 2 in Bennett shows irregularities on the end of a second support member used to hold together various layers of insulation. However, Bennett does not teach anything of the roughness of the irregularities relative to the outer surface of the substrate. Also, the end of the second support member in Bennett is not the outer surface of the base material as defined in claim 16. For these reasons, the combination of Krumweide and Bennett fails to teach or suggest all of the limitations recited in claim 16. Accordingly, independent claim 16 is not unpatentable over Krumweide in view of Bennett.

Moreover, the combination of Krumweide and Bennett fails to teach adhering an inner surface of a base material to an outer surface of a substrate. In Krumweide, the mesh base material 14 is suspended above the substrate so that liquid foam can be dispersed through the base material's openings. In Bennett, the base material 27 is offset from the substrate by support members 25. Neither Krumweide nor Bennett teaches adhering the base material to the substrate, nor does the combination of Krumweide and Bennett teach or suggest this limitation of claim 16.

Furthermore, Applicants submit that the prior art of record contains no suggestion or motivation to combine the references as proposed by the Examiner. The Examiner states that it would have been obvious to one skilled in the art at the time of the invention to have incorporated the use of a retaining pin with irregularities on its end as taught by Bennett for the purpose of securing insulation to a container surface as taught by Krumweide. However, the

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figures in Krumweide do not show insulation covering the ends of the studs 10, and the invention of Krumweide includes stripping away the top layer of insulation and removing the ends of the studs where the irregularities would have been added per Bennett. Therefore, incorporating irregularities per Bennett on the ends of the studs in Krumweide would not have the effect of preventing de-bonding of insulation either in its intermediate or final configuration. Applicants submit that for these reasons Krumweide and Bennett teach away from the Examiner's proposed combination.

Accordingly, Applicants request the withdrawal of the §103 rejection of claim 16.

Claims 17-18, 20, 22-26, and 29-31 variously depend from independent claim 16, discussed above. In this regard, Applicants' remarks related to the §103 rejection of claim 16 also apply to claims 17-18, 20, 22-26, and 29-31. Accordingly, claims 17-18, 20, 22-26, and 29-31 are not unpatentable over Krumweide in view of Bennett.

In addition, Applicants submit that the Examiner's characterization of Krumweide in the rejection of claim 22 is inaccurate. The Examiner states that Krumweide teaches a method wherein a layer of a retaining means has extensions formed by machine punching for the purpose of forming a roughened layer for retaining insulation. However, Krumweide teaches only the use of a perforated sheet wherein holes have been punched. The holes punched in Krumweide are simply open area. There is no mention of extensions being formed as a result of punching the holes. Furthermore, Krumweide does not teach the use of the open area for the purpose of forming a roughened layer for retaining insulation. Rather, the purpose of the machine-punched openings in Krumweide is to allow liquid foam to pass through the layer, not as a means of retaining insulation. Given this view of Krumweide, Applicants argue that it would not have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated a punching step for the purpose of creating extensions capable of retaining foam insulation. Thus, for at least these additional reasons, the combination of Krumweide and Bennett fails to teach or suggest all of the limitations of claim 22 and, therefore, claim 22 is not unpatentable over this combination of references.

Applicants also submit that the Examiner's characterization of Bennett in the rejection of claims 23-26 is inaccurate. Bennett teaches the use of washers or similar discs to sandwich together layers of insulation. Bennett does not teach the use of fingers extending from

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extensions of a base material adhered to a substrate wherein the purpose of the fingers is to grip an insulation material formed over the fingers. Nor does Bennett teach such a method wherein the fingers form hooked or barbed formations. Thus, for at least these additional reasons, the combination of Krumweide and Bennett fails to teach or suggest all of the limitations of claims 23-26 and, therefore, claims 23-26 are not unpatentable over this combination of references.

In addition, Applicants submit that the Examiner's characterization of Bennett in the rejection of claims 29-30 is inaccurate. The Examiner states that Bennett teaches a method wherein a base material is adhered to a substrate using an adhesive material and also wherein the adhesive material is adhered to the base material before the base material is adhered to the substrate. However, Bennett only teaches a method of using adhesive at joints between the elements forming the insulation layers and between the insulation layers themselves. Bennett does not teach a method of adhering a base material to a substrate. Thus, for at least this additional reason, the combination of Krumweide and Bennett fails to teach or suggest all of the limitations of claims 29-30 and, therefore, claims 29-30 are not unpatentable over this combination of references.

Accordingly, Applicants request the withdrawal of the §103 rejection of claims 17-18, 20, 22-26, and 29-31 for the additional reasons provided above.

Regarding claim 33, which is an independent claim, Applicants' remarks related to the §103 rejection of claim 16 also apply to claim 33. In addition, the combination of Krumweide and Bennett does not teach the encapsulation limitation of claim 33. Neither Fig. 1 nor Fig. 2 in Krumweide show the insulation initially covering the ends of the studs 10. Then, after stripping away the top layer of insulation as shown in Fig. 3, the ends of the studs remain exposed. In retaining the support membrane 27 in Bennett, the ends of the support members 25 and the associated retaining means 28 function on the side of the membrane opposite that where the insulation 31 is disposed, and hence, similar to the studs in Krumweide, are not encapsulated by insulation. The combination of Krumweide and Bennett does not teach or suggest the further limitation of claim 33 that the insulation encapsulate the extensions.

For the above reasons, the combination of Krumweide and Bennett fails to teach or suggest all of the limitations recited in independent claim 33. Accordingly, claim 33 is not

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unpatentable over Krumweide in view of Bennett, and Applicants request the withdrawal of the §103 rejection of claim 33.

Claim 21 has been canceled. Hence, its rejection is now moot.

Claim 19 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Krumweide in view of Bennett and Sperber, USPN 6,584,749 (hereinafter "Sperber"). Applicants respectfully traverse this rejection.

Claim 19 depends from independent claim 16, discussed above. In this regard, Applicants' remarks related to the §103 rejection of claim 16 also apply to claim 19, and Sperber does not compensate for the shortcomings of Krumweide and Bennett. Accordingly, claim 19 is not unpatentable over Krumweide in view of Bennett and further in view of Sperber, and Applicants request the withdrawal of the §103 rejection of claim 19.

Claims 27-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Krumweide. Applicants respectfully traverse these rejections.

Claims 27-28 variously depend from independent claim 16, discussed above. In this regard, the bulk of Applicants' remarks related to the §103 rejection of claim 16 also apply to claims 27-28. Namely, it would not be obvious to modify Krumweide as proposed by the Examiner. Accordingly, claims 27-28 are not unpatentable over Krumweide standing alone, and Applicants request the withdrawal of the §103 rejection of claims 27-28.

In conclusion, for the reasons given above, all claims now presently in the application are believed allowable and such allowance is respectfully requested. Should the Examiner have any questions or wish to further discuss this application, Applicants request that the Examiner contact the undersigned attorney at (480) 385-5060.

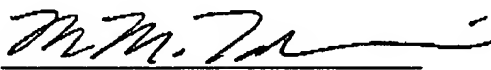
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If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent abandonment on this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,

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